



January 26, 1998, still applies. Two technical concerns resulting from the amendments have been noted below.

#### Technical Considerations

The B&CTL language has been amended to limit the credit carryover to 11 years. However, the PITL language has not been limited. The author's office has indicated that the PITL credit is intended to be limited to the same 11 year carryover as the B&CTL. Additionally, the B&CTL language does not appear to clearly limit the carryover as intended. Amendments 2 and 4 would add a limited carryover to the PITL and clarify that carryover under the B&CTL would be limited to 11 years.

Under the PITL, this bill would require that an employee reside in California to make a taxpayer eligible for a credit. However, the B&CTL does not contain a similar provision. Moreover, a requirement that an employee reside in California may be subject constitutional challenge under the Commerce Clause of the United States Constitution. A different method might require that employees be employed in California for the employer to claim the credit.

The word "of" has been inserted in front of the description of the amount of credit that would be allowed under both PITL and B&CTL. This term is unnecessary and is different from standard credit language. Amendments 1 and 3 would delete this unnecessary and potentially confusing language.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1702  
As Amended March 12, 1998

AMENDMENT 1

On page 2 line 6, strike "of"

AMENDMENT 2

On page 2, strike lines 11 and 12 and insert:

"net tax," in the following year and the next 10 succeeding years if necessary, or until the credit has been exhausted, whichever occurs first.

AMENDMENT 3

On page 2 line 32, strike "of"

AMENDMENT 4

On page 2, strike lines 37 and 38 and insert:

in the following year and the next 10 succeeding years if necessary, or until the credit has been exhausted, whichever occurs first.